



House of Representatives

File No. 647

General Assembly

February Session, 2004

(Reprint of File No. 435)

Substitute House Bill No. 5407
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 23, 2004

AN ACT CONCERNING ORGAN DONATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) The Commissioner of
2 Motor Vehicles and the Chief Information Officer of the Department of
3 Information Technology shall enter into an agreement with one or
4 more federally-designated organ and tissue procurement
5 organizations to provide to such organizations access to the names,
6 dates of birth and other pertinent information of holders of operator's
7 licenses who have registered with the Department of Motor Vehicles
8 an intent to become organ and tissue donors. Such access shall be
9 provided in a manner and form to be determined by the commissioner
10 and Chief Information Officer, following consultation with such
11 organizations, and may include electronic transmission of initial
12 information and periodic updating of information. The commissioner
13 shall not charge a fee for such access pursuant to section 14-50a of the
14 general statutes, as amended, but may charge such organizations
15 reasonable administrative costs. Information provided to such
16 organizations shall be used solely for identifying such license holders

17 as organ and tissue donors.

18 (b) The Commissioner of Motor Vehicles shall include in regulations
19 adopted pursuant to section 14-36f of the general statutes, a
20 requirement that a description of the purposes and procedures of
21 procurement organizations, as defined in section 19a-279a of the
22 general statutes, as amended by this act, be included in driver
23 education programs.

24 Sec. 2. Subsection (f) of section 14-10 of the general statutes, as
25 amended by section 7 of public act 03-265, is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2004*):

27 (f) The commissioner may disclose personal information from a
28 motor vehicle record to:

29 (1) Any federal, state or local government agency in carrying out its
30 functions or to any individual or entity acting on behalf of any such
31 agency, or

32 (2) Any individual, organization or entity that signs and files with
33 the commissioner, under penalty of false statement as provided in
34 section 53a-157b, a statement on a form approved by the
35 commissioner, together with such supporting documentation or
36 information as the commissioner may require, that such information
37 will be used for any of the following purposes:

38 (A) In connection with matters of motor vehicle or driver safety and
39 theft, motor vehicle emissions, motor vehicle product alterations,
40 recalls or advisories, performance monitoring of motor vehicles and
41 dealers by motor vehicle manufacturers and removal of nonowner
42 records from the original owner records of motor vehicle
43 manufacturers to implement the provisions of the federal Automobile
44 Information Disclosure Act, 15 USC 1231 et seq., the Clean Air Act, 42
45 USC 7401 et seq., and 49 USC Chapters 301, 305 and 321 to 331,
46 inclusive, as amended from time to time, and any provision of the
47 general statutes enacted to attain compliance with said federal acts;

48 (B) In the normal course of business by the requesting party, but
49 only to confirm the accuracy of personal information submitted by the
50 individual to the requesting party;

51 (C) In connection with any civil, criminal, administrative or arbitral
52 proceeding in any court or government agency or before any self-
53 regulatory body, including the service of process, an investigation in
54 anticipation of litigation by an attorney-at-law or any individual acting
55 on behalf of an attorney-at-law and the execution or enforcement of
56 judgments and orders, or pursuant to an order of any court provided
57 the requesting party is a party in interest to such proceeding;

58 (D) In connection with matters of motor vehicle or driver safety and
59 theft, motor vehicle emissions, motor vehicle product alterations,
60 recalls or advisories, performance monitoring of motor vehicles and
61 motor vehicle parts and dealers, motor vehicle market research
62 activities including survey research, motor vehicle product and service
63 communications, and removal of nonowner records from the original
64 owner records of motor vehicle manufacturers, provided the personal
65 information is not published, disclosed or used to contact individuals
66 except as permitted under subparagraph (A) of this subdivision;

67 (E) By any insurer or insurance support organization or by a self-
68 insured entity or its agents, employees or contractors, in connection
69 with the investigation of claims arising under insurance policies,
70 antifraud activities, rating or underwriting;

71 (F) In providing any notice required by law to owners or lienholders
72 named in the certificate of title of towed, abandoned or impounded
73 motor vehicles;

74 (G) By an employer or its agent or insurer to obtain or verify
75 information relating to a holder of a passenger endorsement or
76 commercial driver's license required under 49 USC Chapter 313, and
77 sections 14-44 to 14-44m, inclusive, as amended;

78 (H) In connection with any lawful purpose of a labor organization,

79 as defined in section 31-77, provided (i) such organization has entered
80 into a contract with the commissioner, on such terms and conditions as
81 the commissioner may require, and (ii) the information will be used
82 only for the purposes specified in the contract other than campaign or
83 political purposes;

84 (I) For bulk distribution for surveys, marketing or solicitations
85 provided the commissioner has obtained the express consent of the
86 individual to whom such personal information pertains;

87 (J) For the purpose of preventing fraud by verifying the accuracy of
88 personal information contained in a motor vehicle record, including an
89 individual's photograph or computerized image, as submitted by an
90 individual to a legitimate business or an agent, employee or contractor
91 of a legitimate business, provided the individual has provided express
92 consent in accordance with subdivision (5) of subsection (a) of this
93 section;

94 (K) Inclusion of personal information about persons who have
95 indicated consent to become organ and tissue donors in a donor
96 registry established by a procurement organization, as defined in
97 section 19a-279a, as amended by this act.

98 Sec. 3. Section 19a-279a of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2004*):

100 As used in sections 19a-279a to 19a-279l, inclusive, as amended by
101 this act:

102 (1) "Anatomical gift" means a donation of all or part of a human
103 body to take effect upon or after death.

104 (2) "Decedent" means a deceased person and includes a stillborn
105 infant or fetus.

106 (3) "Document of gift" means [a card] an organ and tissue donor
107 card, inclusion in a donor registry, a statement attached to or
108 imprinted on a motor vehicle operator's or chauffeur's license, an

109 indication on a signed motor vehicle operator's license application or
110 renewal form, a will or other writing used to make an anatomical gift.

111 (4) "Donor" means a person who makes an anatomical gift of all or
112 part of his or her body.

113 (5) "Hospital" means a hospital licensed under chapter 368v or
114 licensed, accredited or approved as a hospital under the law of any
115 state or a facility operated as a hospital by the United States
116 government, a state or a subdivision of a state.

117 (6) "Donor registry" means an electronic database developed and
118 maintained by any procurement organization to identify donors.

119 [(6)] (7) "Part" means an organ, tissue, eye, bone, artery, blood, fluid
120 or other portion of a human body.

121 [(7)] (8) "Person" means an individual, corporation, limited liability
122 company, business trust, estate, trust, partnership, joint venture,
123 association, government, governmental subdivision or agency or any
124 other legal or commercial entity.

125 [(8)] (9) "Physician" or "surgeon" means a person licensed to practice
126 medicine and surgery under chapter 370 or the law of any other state.

127 [(9)] (10) "Procurement organization" means a person licensed,
128 accredited or approved under federal law or the laws of any state as a
129 nonprofit organ and tissue procurement organization for procurement,
130 distribution or storage of human bodies or parts.

131 [(10)] (11) "State" means a state, territory or possession of the United
132 States, the District of Columbia or the Commonwealth of Puerto Rico.

133 [(11)] (12) "Technician" means a technician of an organ or tissue
134 procurement organization which meets the requirements of the
135 American Association of Tissue Banks or the Eyebank Association of
136 America.

137 Sec. 4. Section 19a-279b of the general statutes is repealed and the
138 following is substituted in lieu thereof (*Effective October 1, 2004*):

139 (a) A person who is at least eighteen years of age may (1) make an
140 anatomical gift for any of the purposes stated in subsection (a) of
141 section 19a-279f, (2) limit an anatomical gift to one or more of such
142 purposes, or (3) refuse to make an anatomical gift.

143 (b) An anatomical gift may be made by a document of gift signed by
144 the donor. If the donor cannot sign, the document of gift shall be
145 signed by another person and by two witnesses, all of whom have
146 signed at the direction and in the presence of the donor and of each
147 other, and state that it has been so signed. In the absence of a
148 revocation or amendment of any document of gift, health care
149 providers licensed in this state and procurement organizations shall
150 act in accordance with the donor's intention and may take appropriate
151 actions to effect the anatomical gift.

152 (c) If a document of gift is attached to or imprinted on a donor's
153 motor vehicle operator's license, the document of gift shall comply
154 with subsection (b) of this section. Revocation, suspension, expiration
155 or cancellation of the license shall not invalidate the anatomical gift.

156 (d) A document of gift may designate a particular physician or
157 surgeon to carry out the appropriate procedures. In the absence of a
158 designation or if the designee is not available, the donee or other
159 person authorized to accept the anatomical gift may employ or
160 authorize any physician or surgeon to carry out the appropriate
161 procedure.

162 (e) An anatomical gift by will shall take effect upon the death of the
163 testator, whether or not the will is probated. If, after death, the will is
164 declared invalid for testamentary purposes, the validity of the
165 anatomical gift is unaffected.

166 (f) A donor may amend or revoke an anatomical gift, not made by
167 will, [only] by: (1) A signed statement, [or] (2) the delivery of a signed

168 statement to a procurement organization or a specified donee to whom
169 a document of gift had been delivered, or (3) any form of
170 communication during a terminal illness or injury addressed to a
171 physician.

172 (g) The donor of an anatomical gift made by will may amend or
173 revoke the gift in the manner provided for amendment or revocation
174 of wills, or as provided in subsection (f) of this section.

175 (h) An anatomical gift that is not revoked by the donor before death
176 is irrevocable and shall not require the consent or concurrence of any
177 person after the death of the donor.

178 (i) A person may refuse to make an anatomical gift of [his] such
179 person's body or part by (1) a writing signed in the same manner as a
180 document of gift, or (2) [a statement attached to or imprinted on a
181 donor's motor vehicle operator's or chauffeur's license or (3)] any other
182 writing used to identify the person as refusing to make an anatomical
183 gift. During a terminal illness or injury, the refusal may be an oral
184 statement or other form of communication addressed to a physician.

185 (j) In the absence of contrary indications by the donor, an anatomical
186 gift of a part is neither a refusal to give other parts nor a limitation on
187 an anatomical gift under section 19a-279c or on a removal or release of
188 other parts under section 19a-279d.

189 (k) In the absence of contrary indications by the donor, a revocation
190 or amendment of an anatomical gift is not a refusal to make another
191 anatomical gift. If the donor intends a revocation to be a refusal to
192 make an anatomical gift, the donor shall make the refusal pursuant to
193 subsection (i) of this section.

194 Sec. 5. Section 19a-279e of the general statutes is repealed and the
195 following is substituted in lieu thereof (*Effective October 1, 2004*):

196 (a) If, at or near the time of death of a patient, there is no [medical
197 record] document of gift or other record that the patient has made or

198 refused to make an anatomical gift, the hospital administrator or a
199 representative designated by the administrator shall discuss the option
200 to make or refuse to make an anatomical gift and request the making
201 of an anatomical gift pursuant to subsection (a) of section 19a-279c. The
202 request shall be made with reasonable discretion and sensitivity to the
203 circumstances of the family. A request is not required if the gift is not
204 suitable, based upon accepted medical standards, for a purpose
205 specified in section 19a-279f. An entry shall be made in the medical
206 record of the patient stating the name and affiliation of the person
207 making the request, and the name, response and relationship to the
208 patient of the person to whom the request was made.

209 (b) The following persons shall make a reasonable search for a
210 document of gift or other information identifying the bearer as a donor
211 or as a person who has refused to make an anatomical gift: (1) A law
212 enforcement officer, fireman, paramedic or other emergency rescuer
213 finding a person who the searcher believes is dead or near death; [and]
214 (2) a hospital, upon the admission of a person at or near the time of
215 death, if there is not immediately available any other source of that
216 information; and (3) a procurement organization.

217 (c) If a document of gift or evidence of refusal to make an
218 anatomical gift is located by the search required by subdivision (1) of
219 subsection (b) of this section, and the person or body to whom it
220 relates is taken to a hospital, the hospital shall be notified of the
221 contents and the document or other evidence shall be sent to the
222 hospital.

223 (d) If, at or near the time of death of a patient, a hospital knows that
224 an anatomical gift has been made pursuant to subsection (b) of section
225 19a-279b, as amended by this act, and subsection (a) of section 19a-279c
226 or a release and removal of a part has been permitted pursuant to
227 section 19a-279d, or that a patient or a person identified as in transit to
228 the hospital is a donor, the hospital shall notify the donee if one is
229 named and known to the hospital; if not, it shall notify an appropriate
230 procurement organization. The hospital shall cooperate in the

231 implementation of the anatomical gift or release and removal of a part.

232 (e) A person who fails to discharge the duties imposed by this
233 section shall not be subject to criminal or civil liability but shall be
234 subject to appropriate administrative sanctions.

235 Sec. 6. Subsection (a) of section 19a-279j of the general statutes is
236 repealed and the following is substituted in lieu thereof (*Effective*
237 *October 1, 2004*):

238 (a) An anatomical gift shall authorize any reasonable examination
239 necessary to assure medical acceptability of the gift for the purposes
240 intended, including, but not limited to, serological and compatibility
241 testing. Notwithstanding any provision of the general statutes, a
242 procurement organization may access and review the medical record
243 of the potential donor for purposes of assessing donor suitability.

244 Sec. 7. Section 19a-583 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective October 1, 2004*):

246 (a) No person who obtains confidential HIV-related information
247 may disclose or be compelled to disclose such information, except to
248 the following:

249 (1) The protected individual, his legal guardian or a person
250 authorized to consent to health care for such individual;

251 (2) Any person who secures a release of confidential HIV-related
252 information;

253 (3) A federal, state or local health officer when such disclosure is
254 mandated or authorized by federal or state law;

255 (4) A health care provider or health facility when knowledge of the
256 HIV-related information is necessary to provide appropriate care or
257 treatment to the protected individual or a child of the individual or
258 when confidential HIV-related information is already recorded in a
259 medical chart or record and a health care provider has access to such

260 record for the purpose of providing medical care to the protected
261 individual;

262 (5) A medical examiner to assist in determining the cause or
263 circumstances of death;

264 (6) Health facility staff committees or accreditation or oversight
265 review organizations which are conducting program monitoring,
266 program evaluation or service reviews;

267 (7) A health care provider or other person in cases where such
268 provider or person in the course of his occupational duties has had a
269 significant exposure to HIV infection, provided the following criteria
270 are met: (A) The worker is able to document significant exposure
271 during performance of his occupation, (B) the worker completes an
272 incident report within forty-eight hours of exposure, identifying the
273 parties to the exposure, witnesses, time, place and nature of the event,
274 (C) the worker submits to a baseline HIV test within seventy-two
275 hours of the exposure and is negative on that test for the presence of
276 the AIDS virus, (D) the patient's or person's physician or, if the patient
277 or person does not have a personal physician or if the patient's or
278 person's physician is unavailable, another physician or health care
279 provider has approached the patient or person and sought voluntary
280 consent to disclosure and the patient or person refuses to consent to
281 disclosure, except in an exposure where the patient or person is
282 deceased, (E) the worker would be able to take meaningful immediate
283 action as defined in regulations adopted pursuant to section 19a-589
284 which could not otherwise be taken, (F) an exposure evaluation group
285 determines that the criteria specified in subparagraphs (A), (B), (C), (D)
286 and (E) of this subdivision are met and that a worker has a significant
287 exposure to the blood of a patient or person and the patient or person
288 or the patient's or person's legal guardian refuses to consent to release
289 of the information. No member of the exposure evaluation group who
290 determines that a worker has sustained a significant exposure and
291 authorizes the disclosure of confidential HIV-related information nor
292 the health facility, correctional facility or other institution nor any

293 person in a health facility, correctional facility or other institution who
294 relies in good faith on the group's determination and discloses the
295 result shall have any liability as a result of his action carried out under
296 this section, unless such persons acted in bad faith. If the information is
297 not held by a health facility, correctional facility or other institution, a
298 physician not directly involved in the exposure has certified in writing
299 that the criteria specified in subparagraphs (A), (B), (C), (D) and (E) of
300 this subdivision are met and that a significant exposure has occurred;

301 (8) Employees of hospitals for mental illness operated by the
302 Department of Mental Health and Addiction Services if the infection
303 control committee of the hospital determines that the behavior of the
304 patient poses a significant risk of transmission to another patient of the
305 hospital. Disclosure shall only be allowed if it is likely to prevent or
306 reduce the risk of transmission and no reasonable alternatives exist
307 that will achieve the same goal and also preserve the confidentiality of
308 the information. Such "reasonable alternatives" include counseling the
309 patient concerning behaviors that pose a risk of transmission and other
310 efforts to prevent or address the behaviors that pose a significant risk
311 of transmission without disclosing the patient's HIV status or other
312 confidential HIV-related information. Disclosure shall be limited to as
313 few employees as possible and only to those employees with a direct
314 need to receive the information to achieve the purpose authorized by
315 this subdivision;

316 (9) Employees of facilities operated by the Department of Correction
317 to provide services related to HIV infection or if the medical director
318 and chief administrator of the facility determine that the behavior of an
319 inmate poses significant risk of transmission to another inmate or has
320 resulted in a significant exposure of another inmate of the facility. Such
321 a disclosure shall only be made if it is specifically required to enable
322 the inmate to receive such services or is likely to prevent or reduce the
323 risk of transmission and no reasonable alternatives exist that will
324 achieve the same goal and also preserve the confidentiality of the
325 information. Such "reasonable alternatives" include counseling the
326 inmate concerning behaviors that pose a risk of transmission or other

327 efforts to prevent or address the behaviors that pose a significant risk
328 of transmission without disclosing the patient's HIV status or other
329 confidential HIV-related information. Disclosure shall be limited to as
330 few employees as possible and only to those employees with a direct
331 need to receive the information to achieve a purpose authorized by this
332 subdivision;

333 (10) Any person allowed access to such information by a court order
334 which is issued in compliance with the following provisions: (A) No
335 court of this state shall issue such order unless the court finds a clear
336 and imminent danger to the public health or the health of a person and
337 that the person has demonstrated a compelling need for the test results
338 which cannot be accommodated by other means. In assessing
339 compelling need, the court shall weigh the need for disclosure against
340 the privacy interest of the test subject and the public interest which
341 may be disserved by disclosure which deters future testing or which
342 may lead to discrimination. (B) Pleadings pertaining to disclosure of
343 confidential HIV-related information shall substitute a pseudonym for
344 the true name of the subject of the test. The disclosure to the parties of
345 the subject's true name shall be communicated confidentially, in
346 documents not filed with the court. (C) Before granting any such order,
347 the court shall provide the individual whose test result is in question
348 with notice and a reasonable opportunity to participate in the
349 proceedings if he is not already a party. (D) Court proceedings as to
350 disclosure of confidential HIV-related information shall be conducted
351 in camera unless the subject of the test agrees to a hearing in open
352 court or unless the court determines that a public hearing is necessary
353 to the public interest and the proper administration of justice. (E) Upon
354 the issuance of an order to disclose test results, the court shall impose
355 appropriate safeguards against unauthorized disclosure, which shall
356 specify the persons who may have access to the information, the
357 purposes for which the information shall be used, and appropriate
358 prohibitions on future disclosure;

359 (11) Life and health insurers, government payers and health care
360 centers and their affiliates, reinsurers, and contractors, except agents

361 and brokers, in connection with underwriting and claim activity for
362 life, health, and disability benefits; [and]

363 (12) Any health care provider specifically designated by the
364 protected individual to receive such information received by a life or
365 health insurer or health care center pursuant to an application for life,
366 health or disability insurance; and

367 (13) A procurement organization, for the purposes of assessing
368 donor suitability pursuant to section 19a-279j, as amended by this act.

369 (b) No person, except the protected individual, his legal guardian or
370 a person authorized to consent to health care for such individual, to
371 whom confidential HIV-related information is disclosed may further
372 disclose such information, except as provided in this section and
373 sections 19a-584 and 19a-585.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Motor Vehicle Dept.	TF - See Below	None	None

Note: TF=Transportation Fund

Municipal Impact: None

Explanation

The bill requires the Department of Motor Vehicles to provide driver license information to an organ donor registry through a data access agreement. There is no impact to the agency to enter into such agreement since it already has other similar agreements for accessing driver license information.

There is also no impact from requiring the agency to include an organ donor information component in driver education programs. The agency can accomplish this through regulations. Driver education programs are regulated by the DMV.

House "A" makes technical changes to the original bill and has no fiscal impact.

OLR BILL ANALYSIS

sHB 5407 (as amended by House "A")

AN ACT CONCERNING ORGAN DONATION**SUMMARY:**

The bill amends the law on organ and tissue donation by:

1. requiring the Department of Motor Vehicles (DMV) and the Department of Information Technology (DOIT) to enter into an agreement with a procurement organization to provide the organization access to information on those indicating their intent to DMV to be organ or tissue donors;
2. expanding the definition of "document of gift" for purposes of making an anatomical gift;
3. allowing health care providers and procurement organizations to act according to the donor's intentions under certain circumstances;
4. expanding the ways a donor can amend or revoke a gift;
5. making changes to the ways in which a person can refuse to make an anatomical gift;
6. adding procurement organizations to those who must make a reasonable search for a document of gift or other information about a person's intentions;
7. allowing certain testing as part of a reasonable examination to determine if an anatomical gift is medically suitable;
8. allowing a procurement organization to access and review a person's medical record for suitability under certain conditions; and
9. allowing disclosure to a procurement organization of HIV-related information in order to access donor suitability.

*House Amendment "A" adds an indication on a signed motor vehicle license application or renewal form to the definition of document of gift; allows a donor to amend or revoke a gift by delivering a signed statement to a procurement organization; and makes a number of technical changes.

EFFECTIVE DATE: October 1, 2004

DMV-DOIT AGREEMENT WITH PROCUREMENT ORGANIZATION

The bill requires the DMV commissioner and chief information officer of DOIT to enter into an agreement with one or more federally designated organ and tissue procurement organizations to provide these organizations with access to names, birthdates, and other relevant information of operator license holders who have registered their intent to be organ donors with DMV. DMV and DOIT must determine the form and manner of such access after consulting with the procurement organization. This can include electronic transmission of initial information and periodic updates.

The bill redefines "procurement organization" as a person licensed, accredited, or approved under federal law, or laws of any state, as a nonprofit organization and tissue procurement organization to procure, distribute, or store human bodies or parts.

DMV cannot charge a fee for this access, but can charge the procurement organization reasonable administrative costs. Information provided can only be used to identify license holders as organ and tissue donors.

DMV must include in its regulations a requirement that a description of the purposes and procedures of procurement organizations be included in driver education programs.

DISCLOSURE OF PERSONAL INFORMATION FROM A MOTOR VEHICLE RECORD; DONOR REGISTRY

The bill specifically allows DMV to disclose personal information from a motor vehicle record to any individual, organization, or entity using it for inclusion of personal information about people who have indicated consent to become organ and tissue donors in a donor

registry established by a procurement organization.

The individual, organization, or entity must sign and file with DMV a statement on a DMV-approved form, under penalty for false statement, that the information will be used as stated. DMV can require supporting documentation or information.

The bill defines a “donor registry” as an electronic database developed and maintained by a procurement organization to identify donors.

MAKING AN ANATOMICAL GIFT

State law allows someone at least 18 years old to (1) make an anatomical gift for any of the purposes allowed by law, (2) limit an anatomical gift to one or more of these purposes, or (3) refuse to make such a gift. By law, an anatomical gift can be made by a “document of gift” signed by the donor, which means a card, a statement attached to or imprinted on a driver’s license, will, or other writing used to make an anatomical gift. This bill adds to the definition of document of gift (1) an organ and tissue donor card, (2) inclusion in an organ donor registry, and (3) an indication on a signed motor vehicle operator’s license application or renewal form.

The bill also specifies that, in the absence of a revocation or amendment of any document of gift, state-licensed health care providers and procurement organizations can act according to the donor’s intention and take appropriate actions to effect the anatomical gift.

Amending or Revoking an Anatomical Gift

The bill expands the ways in which a donor can amend or revoke a gift not made by will by (1) allowing any form of communication during a terminal illness addressed to a physician or (2) allowing a donor to amend or revoke a gift by delivery of a signed statement to a procurement organization. Current law only allows a signed statement or delivery of a signed statement to a specified donee who had received a document of gift.

Refusal to Make a Gift

By law, a person can refuse to make an anatomical gift by (1) a writing

signed in the same manner as a document of gift, (2) a statement attached to or imprinted on the donor's driver's license, or (3) any other writing used to identify the person as refusing to make a gift. The refusal may be an oral statement or other form of communication during a terminal illness or injury.

This bill eliminates the option of refusing to make anatomical gift through the statement or imprint on the license. It also requires that the refusal during the terminal illness or injury be addressed to a physician.

Discussions About an Anatomical Gift

If at or near the time of death, there is no record of a patient making or refusing to make an anatomical gift, the law requires the hospital administrator (or designee) to discuss donor options. The bill clarifies that this applies when there is no document of gift or other record indicating a person's actions.

Reasonable Search for a Document of Gift

The bill adds a procurement organization to those who must make a reasonable search for a document of gift or other information identifying the individual as a donor or one who has refused. Current law requires law enforcement officers, firemen, paramedics, or other emergency rescuers to do this. The law also requires hospitals to conduct a search upon admission of someone at or near death if no other source of information is available.

Reasonable Examination

Under the law, an anatomical gift authorizes any reasonable examination to assure the medical acceptability of the gift for its intended purposes. The bill provides that this includes serological and compatibility testing. It allows a procurement organization to assess and review the donor's medical record to assess suitability.

DISCLOSURE OF HIV-RELATED INFORMATION

The law prohibits anyone obtaining confidential HIV-related information from disclosing or being compelled to disclose the information except to certain individuals as prescribed by law. The bill

allows disclosure to a procurement organization in order to assess donor suitability.

BACKGROUND

Legislative History

The House referred the bill (File 435) to the Transportation Committee on April 13. That committee favorably reported the bill on April 15.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 22 Nay 0

Transportation Committee

Joint Favorable Report

Yea 25 Nay 0